

**STATE OF LOUISIANA
INVITATION TO BID (ITB)**

**PURCHASE
OF
DATA PROCESSING
HARDWARE**

Issuing Agency:

LSU Health Sciences Center - Shreveport

ITB Coordinator:

Jeffery Hartgrove, Director of Purchasing
And Material Management

Bid Opening:

April 13, 2010 @ 2:00 PM

LSUHSC-Shreveport
Purchasing Department
PO Box 33932
1501 Kings Hwy
Shreveport, LA 71130

Solicitation Number:

005362

"SAN Storage"

Part I. Scope, Evaluation, Selection, and Award

1.1 Scope

This ITB solicits bids for the purchase of the items described in Attachment I. This is to be a five (5) year contract to consist of a one (1) year warranty and four (4) years maintenance. Bidders are to note that the maintenance will be paid on an annual basis.

1.2 Evaluation and Selection

All responses received as a result of this ITB shall be subject to evaluation by a duly authorized committee for the purpose of selecting the bidder with whom a contract may be negotiated.

1.3 Basis of Evaluation and Selection

The basis of evaluation and selection shall be as follows:

- 1.3.1 The bid shall be evaluated to insure that all mandatory administrative requirements have been met. Failure to meet all of these requirements shall result in rejection of the entire bid without further consideration.
- 1.3.2 The bid shall be evaluated to insure that all mandatory technical requirements have been met. Failure to meet all of these requirements shall result in rejection of the entire bid without further consideration.
- 1.3.3 The next consideration shall be the total projected cost, including charges for installation and shipping.
- 1.3.4 The State reserves the right to require additional information from bidders, and to conduct necessary investigations to determine responsibility of bidders or to determine accuracy of bid information.
- 1.3.5 Bidders meeting mandatory requirements may be required to make oral presentations and/or equipment demonstrations. Failure to comply shall result in rejection of the bid and forfeiture of bid guarantee.

1.4 Preaward Negotiations

Upon determination of which bidder is the apparent lowest responsive and responsible bidder, the State reserves the right to negotiate final contract terms with that bidder. If for any reason the apparent lowest responsive, responsible bidder does not agree to a contract, its bid shall be rejected

and the State may then negotiate with the next best bidder. An award shall be made only after the Office of State Purchasing, Division of Administration, has approved the final contract form, and

the proper purchasing authority has issued a purchase order.

CAUTION: ANY BIDDER WHO SHIPS OR OTHERWISE EXPENDS TIME OR MONEY PRIOR TO AWARD AS DEFINED ABOVE, DOES SO AT THE BIDDER'S OWN RISK.

1.5 Award

- 1.5.1** The State reserves the right to award items separately, grouped or on an all-or-none basis and to reject any or all bids and waive any informalities.
- 1.5.2** The State is not liable for any cost incurred by the bidders prior to execution of a contract, and the issuance of a purchase order.

Part II. Mandatory Administrative Section

BIDS NOT CONFORMING TO THE FOLLOWING REQUIREMENTS SHALL BE REJECTED WITHOUT FURTHER CONSIDERATION OR EVALUATION.

2.1 Sealed Bid

Each bidder shall submit one original copy of its bid. Either the entire bid or the cost section shall be sealed.

2.2 Bid Guarantee

N/A

2.3 Performance Bond

N/A

2.4 Notice To Bidders

Each bidder is solely responsible for the accuracy and completeness of its bid.

2.5 Calendar of Events

Deadline to receive Inquiries: 7 days from bid release 3/29/2010

Answer Inquiries: 3 days from receipt of all questions 4/01/2010

Bid Opening: 14 days from bid release 04/13/2010

NOTE: The State reserves the right to deviate from these dates. Any such revision will be formalized by the issuance of an addendum to this ITB.

2.6 Bidder Inquiries

No negotiations, decisions, or actions shall be executed by any bidder as a result of any oral discussions with any State employee, or State consultant. Only those transactions, which are in writing, issued as an Addendum and/or Informational Notice from the Office of State Purchasing, may be considered as valid. Likewise, the State shall only consider communications from bidders, which are signed and on company letterhead and/or submitted as an attachment via email. The State will accept inquiries via mail, certified mail, e-mail or fax as indicated below.

The State shall not and cannot permit an open-ended inquiry period, as this creates an unwarranted delay in the procurement cycle and operations of our agency customers. The State reasonably expects and requires responsible and interested bidders to conduct their in-depth bid review and submit inquiries in a timely manner.

Further, we realize that additional questions or requests for clarification may generate from the State's addendum responses to the inquiries received during the initial inquiry period. Therefore, a final 3-day inquiry period shall be granted. Questions relative to an addendum shall be submitted by the close of business three working days from the date the addendum is posted to LaPAC¹. If necessary, another addendum will be issued to address the final questions received. Thereafter, all proposal documents, including but not limited to the specifications, terms, conditions, plans, etc., will stand as written and/or amended by any addendum issued as a result of the final inquiry period.

Inquiries concerning this ITB shall be submitted in writing to:

Jeffrey Hartgrove
Director of Purchasing and Materials Management
3010 Linwood Avenue
Shreveport, LA 71130
318-675-5294 phone

Fax: 318-675-5187
e-mail: jhartg@lsuhsc.edu

2.7 Changes, Addenda, Withdrawals

If the bidder needs to submit changes or addenda, such shall be submitted in writing, signed in original ink by an official representative of the bidder, cross-referenced clearly to the relevant bid section, in a sealed envelope, prior to the bid opening. Such shall meet all requirements for the bid. If the bidder chooses to withdraw his bid response, the withdrawal notice shall be in writing and received prior to bid opening.

2.8 Alternate Bids

Alternate bids shall be submitted separately, as individual bids. Each alternate shall contain its own bid bond (if bonds are required).

2.9 Bid Response Format

¹ LaPAC is that portion of the Office of State Purchasing website where solicitations and addenda may be viewed, downloaded, and printed. Please refer to <http://wwwprd.doa.louisiana.gov/OSP/LaPAC/pubmain.asp>. Choose "Search by Bid Number" from the blue menu bar at the top of the screen, type the Bid Number and click SEARCH.

The bid shall be in two parts. Part I shall contain cost data. Part II of the Bid Response shall contain documentation evidencing the bidder's compliance with the ITB requirements.

1. Purchase price for each model and feature of equipment as specified in Attachment I; or if applicable, the monthly rental cost of each model and feature.

An amortization schedule shall be submitted for an installment purchase and/or financed lease.

The State reserves the right to select either to purchase or finance this acquisition.

2. Monthly maintenance cost for coverage as described in Part V of this ITB.

(If the equipment solicited in this ITB is to be purchased, Paragraph 2.13 applies and costs for extended warranty shall be included separately in the price quotation.)

3. Charges for equipment installation shall be itemized and included and shall be itemized separate from the equipment and miscellaneous costs which are described in Paragraph 4 below.
4. Charges for transportation, including packaging to manufacturer's specification, training, and other costs associated with this project shall be itemized separate from the equipment cost.
5. A summary showing total costs for the contract period shall be required.

NOTE: All costs shall be firm for the term.

Part II of the Bid Response may be formatted at the discretion of the bidder; however, the bidder shall document in detail his ability to meet the requirements as set forth herein. Any such documentation should be cross-referenced to the specific section numbers of this Invitation To Bid (ITB).

If there is a quantity discount it must be stated, as the State may choose to accept all or part of the bid per Section 1.5 of this ITB.

2.10 Signature

At least one copy of the bid shall be signed by an authorized employee, agent, or representative of the bidder.

2.11 Delivery of Bids/Bid Opening

Bidders are hereby advised that the U.S. Postal Service does not make deliveries to our physical location.

Bids may be mailed through the U.S. Postal Service to our box at:

Jeffrey Hartgrove
Director of Purchasing and Materials Management
3010 Linwood Avenue
Shreveport, LA 71130

Bids may be delivered by hand or courier service to our physical location at:

Jeffrey Hartgrove
Director of Purchasing and Materials Management
Purchasing Department
1501 Kings Hwy
Shreveport, LA 71130

Bidder is solely responsible for ensuring that its courier service provider makes inside deliveries to our physical location. LSUHSC-Shreveport is not responsible for any delays caused by the bidder's chosen means of bid delivery.

Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date & time shall result in rejection of the bid.

Bids shall be opened and the prices read aloud at LSUHSC Shreveport Purchasing Department, 1501 Kings Hwy, on April 13, 2010.

ALL BIDS BECOME A MATTER OF PUBLIC RECORDS AT THAT TIME. BY SUBMITTING A BID, BIDDER SPECIFICALLY ASSUMES ANY AND ALL RISKS AND LIABILITY ASSOCIATED WITH INFORMATION MARKED CONFIDENTIAL IN THE BID AND THE RELEASE OF THE INFORMATION.

2.12 Prime Contractor Responsibilities

The selected bidder shall be required to assume responsibility for all items offered in his bid whether or not he produces them. Further, the State shall consider the selected bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. The State reserves the right to contract separately for maintenance with the equipment manufacturer.

2.13 Equipment Warranty

If the equipment solicited under this ITB is to be purchased or installment purchased, the following paragraph applies to that procurement.

The State requires a one (1) year warranty on the equipment purchased through this ITB. The one (1) year warranty shall include parts and labor and shall be available twenty-four (24) hours per day, seven (7) days per week, inclusive of State and Federal holidays, with a maximum of four (4) hour response time, inclusive of travel time for remedial maintenance. This warranty shall cover all components of the hardware as well as the operating system, firmware and multi-pathing software.

2.14 Acceptance of Bid Content

The mandatory ITB requirements shall become contractual obligations if a contract ensues. Failure of the successful bidder to accept these obligations shall result in the rejection of the bid. Non-mandatory ITB requirements may be negotiated with the successful bidder.

2.15 Taxes

ANY TAXES, OTHER THAN STATE AND LOCAL SALES AND USE TAXES, FROM WHICH THE STATE IS EXEMPT, SHALL BE ASSUMED TO BE INCLUDED WITHIN THE BIDDER'S COST.

Part III. Non-Mandatory Administrative Requirements

BIDS NOT CONFORMING TO THE FOLLOWING REQUIREMENTS MAY BE CAUSE FOR REJECTION OF A BID WITHOUT FURTHER CONSIDERATION OR EVALUATION IF IT IS DETERMINED THAT THE VARIATION IS NOT IN THE BEST INTEREST OF THE STATE.

3.1 Presentation

Clarity of presentation is desired. Bids should be prepared simply and economically, providing a straightforward, concise description of the bidder's ability to meet the requirements of this ITB. Elaborate bindings, colored displays and promotional material are not desired. Emphasis should be on completeness and clarity of content. It is not necessary for the bidder to return the ITB package.

3.2 Inclusion of Bidder Forms, Contracts, Extraneous Terms, etc.

If the bidder has previously negotiated, and the State has accepted a contract which would be suitable for this acquisition, it should be included for information purposes.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents), whether or not deemed "material", which are attached or referenced with submissions, will not be considered part of the bid or resulting Contract, but rather will be deemed to have been included for informational or promotional purposes only. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s) or a waiver of the State's rights set forth above.

Preprinted contract forms will not be considered in the evaluation, award, or in contract negotiations in accordance with La. R.S. 39:200 F.

3.3 Number of Copies of Bid

Two (2) additional copies of the bid are desired.

3.4 Bid Validity

All bids shall be considered valid for acceptance until final contract award, unless the bidder provides for a different time period within its bid response. However, the State reserves the right to reject a bid if the bidder's response is unacceptable and the bidder is unwilling to extend the validity of its bid.

Part IV. Mandatory Technical Specifications

Bidders are cautioned that all stated requirements are mandatory. This specification establishes the hardware, features, maintenance support and other technical requirements for the data processing equipment listed in Attachments to this ITB.

4.1 Equipment Requirements

The mandatory equipment requirements are described on Attachment I.

4.2 Equivalents Acceptable

Where proprietary specifications are used, the proprietary characteristics are used only to denote the quality standard of the equipment required and do not restrict vendors to the specific brand, make or manufacturer. They are used to set forth and convey to prospective bidders the general style, type, character, and quality of equipment desired. Equivalent plug-compatible equipment shall be acceptable.

4.3 Equipment Acceptability

Only those models which shall be available for purchase or lease on the date the bid is submitted shall be considered acceptable.

Part V. Product Support

5.1 Level of Maintenance

Prior to award, the bidder shall certify that the proposed equipment shall be eligible for manufacturer maintenance and shall be liable for all expenses required to obtain said eligibility. The State requires four (4) years of maintenance to begin upon expiration of the initial warranty period. This maintenance shall cover all components of the hardware as well as the operating system, firmware and multi-pathing software.

5.2 Availability

Manufacturer maintenance for the proposed equipment shall include parts and labor and shall be available twenty-four (24) hours per day, seven (7) days per week, inclusive of State and Federal holidays with a maximum of four (4) hour response time, inclusive of travel time for remedial maintenance.

5.3 Training Requirements

Contractor shall train the staff that will provide primary support of the contractor's SAN. Contractor shall train the staff on the contractor's equipment after equipment has been installed on-site. Contractors shall list all training to be conducted at no cost to the State. Any additional training considered necessary by the contractor to insure efficient operation by State personnel shall be itemized in the cost section of this ITB.

5.4 List of Users

Bidder shall submit, with their bid, a minimum of three (3) academic multi-hospital health systems references which are currently in production, running the same type of equipment that bidder will submit with their bid response, as primary storage for GE Centricity RIS-IC version 10.5 or higher. References must include the facility name, contact name, address, phone number and e-mail address of a contact at these reference sites.

5.5 Delivery

Equipment shall be delivered such that installation can take place and certification with the GE Centricity RIS can begin within 14 days after receipt of the order, and shall meet the requirements stated in Attachment I. Equipment delivery shall be arranged to provide inside delivery of one set of storage equipment to each data center:

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LSUHSC-Shreveport
1501 Kings Highway
Shreveport, LA 71130

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Information Services Building
Room 122
1800 North Third Street
Baton Rouge, LA 70802

5.6 Installation

Bidder shall install all equipment into rack and perform initial configuration, at each site. Bidder shall clean up and remove all packaging from site.

Part VI. Equipment Standard of Performance

All equipment may be subject to the standard of performance stated below. Final terms and conditions of this standard may be negotiated with the successful bidder. The State proposes the following:

- 6.1 Equipment shall not be accepted and payment shall not be made until the standard of performance is met. The date of acceptance should be the first day of the successful performance period. The equipment must meet GE certification for use with their RIS-IC product.
- 6.2 The performance period shall begin on the installation date and shall end when the equipment has met the standard of performance for a period of thirty (30) consecutive days by operating in conformance with the contractor's bid at an effectiveness level of 99.5 % or more.
- 6.3 In the event the equipment does not meet the standard of performance during the initial thirty (30) consecutive days, the standard of performance test should continue on a day- to-day basis until the standard of performance is met for a total of thirty (30) consecutive days.
- 6.4 If the equipment fails to meet the standard of performance after ninety (90) calendar days from the installation date, the State may at its option request a replacement, or terminate the order, and collect on the Performance Bond, if applicable. The effectiveness level for a system is computed by dividing the operational use time by the sum of that time plus system failure down time. Operational use time for performance testing for a system is defined as the accumulated time during which the critical components are not down when scheduled for operation. The system failure down time is that period of time when the system is inoperable due to equipment failure and productive work being utilized for acceptance testing cannot be conducted.
- 6.5 Down time for each incident shall start from the time the State contacts the contractor's designated representative until the equipment is returned to the State in proper operating condition.
- 6.6 The State shall maintain daily records to satisfy the requirements of standard of performance and acceptance of equipment.

Part VII. SPECIAL CONDITIONS AND CONTRACT CLAUSES

The following terms and conditions shall be required in all contracts, however, the exact wording of these clauses, with the exception of those clauses denoted with an asterisk (*), may be negotiated with the successful bidder. If the bidder has a master contract with approved clauses, then the bidder may submit those clauses for use in the final contract.

****7.1 Fiscal Funding***

In accordance with La. R.S. 39:1615 C. and E., any contract entered into by the State as a result of this ITB shall include the following Fiscal Funding Clause:

The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

All bidders should be aware that our legislative process is such that it is often impossible to give prior notice of the non-appropriation of funds.

****7.2 INDEMNIFICATION AND LIMITATION OF LIABILITY***

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors in the performance of this contract, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

Contractor will indemnify, defend and hold the State harmless, *without limitation*, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products, Materials or Services furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: i) State's unauthorized modification or alteration of a Product, Material or Service; ii) State's use of the Service in combination with other products, materials, or services not furnished by Contractor; iii) State's use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the state's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part (s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract.

For all other claims against the Contractor where liability is not otherwise set forth in the Agreement as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges for services rendered by the Contractor under the Contract. Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages,

penalties, costs and the like asserted by or against them.

7.3 General Contract Terms

The following general terms shall be among those included in any ensuing contract:

***7.3.1 Applicable Law**

All contracts entered into as a result of this bid, shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

***7.3.2 Contract Controversies**

Any claim or controversy arising out of the agreement shall be resolved by the provisions of Louisiana Revised Statute 39:1673.

***7.3.3 Security**

Contractor's personnel will comply with all security regulations in effect at the State's premises, and externally for materials and property belonging to the State or to the project. Where special security precautions are warranted (e.g., correctional facilities), the State shall provide such procedures to the Contractor, accordingly. Contractor is responsible for promptly reporting to the State any known breach of security.

***7.3.4 The following provision will apply unless the State Agency specifically indicates that all information exchanged will be non-confidential:**

All financial, statistical, personal, technical and other data and information relating to the State's operations which are designated confidential by the State and made available to the Contractor in order to carry out this Agreement, or any contract entered into as a result of this Agreement, or which becomes available to the Contractor in carrying out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of the paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of the contract, or is rightfully obtained from third parties.

***7.3.5 The State may terminate this Agreement at any time by giving thirty (30) days written notice to contractor of such termination or negotiating with the Contractor an effective**

date. The Contractor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

- *7.3.6** The State may terminate this agreement for cause based upon the failure of Contractor to comply with the terms and/or conditions of the Agreement, or failure to fulfill its performance obligations pursuant to this ITB, provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and the Agreement shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this agreement, provided that the Contractor shall give the State written notice specifying the State's failure and a reasonable opportunity for the State to cure the defect.

7.3.7 Assignment

No contractor shall assign any interest in this contract by assignment, transfer, or novation, without prior written consent of the State of Louisiana, Commissioner of Administration. This provision shall not be construed to prohibit the contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

- 7.3.8** No other documents other than the ITB, bidder's bid and final contract shall be binding unless such document has been reviewed by the Procurement Support Team and approved by the Chief Procurement Officer.

- 7.3.9** No company letterhead or logo shall be allowed on a contract document.

- 7.3.10** Overdue payments shall not exceed the maximum rate allowed by Louisiana State Revised Statute 39:1695 and 13:4202.

- 7.3.11** The Louisiana State Legislative Auditor, federal auditors and internal auditors of the Division of Administration ("DOA") or others so designated by the DOA shall have the option to audit all accounts directly pertaining to the contract for a period of five (5) years after contract acceptance, or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose.

7.3.12 Survival

The rights and obligations of the Master Agreement shall survive the termination of the Master Agreement on any product(s) licensed under the terms and conditions of the Master Agreement. Survival of said rights and obligations shall be for the term

specified in the individual product licenses.

7.3.13 No surreptitious code

The code manufacturer warrants that it will make all commercially reasonable efforts not to include any Unauthorized Code in the software provided hereunder.

"Unauthorized code" means any virus, Trojan horse, worm or other software routine or component designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data, or to perform any other such actions. Excluded from this prohibition are identified and State-authorized features designed for purposes of maintenance or technical support.

- 7.3.14** Any changes mandated by state or federal law, whether legislative or judicial, will be incorporated; however, if such a change is not acceptable to either party, the affected term or terms of the contract shall be renegotiated and, if agreement cannot be reached, shall be stricken from the contract.

The following clauses are mandatory if Federal Funds are utilized for procurement.

7.3.15 CIVIL RIGHTS

Both parties shall abide by the requirements of Title VII of the Civil Rights Act of 1964, and shall not discriminate against employees or applicants due to color, race, religion, sex, handicap or national origin. Furthermore, both parties shall take Affirmative Action pursuant to Executive Order #11246 and the National Vocational Rehabilitation Act of 1973 to provide for positive posture in employing and upgrading persons without regard to race, color, religion, sex, handicap or national origin, and shall take Affirmative Action as provided in the Vietnam Era Veteran's Readjustment Act of 1974. Both parties shall also abide by the requirements of Title VI of the Civil Rights Act of 1964 and the Vocational Rehabilitation Act of 1973 to ensure that all services are delivered without discrimination due to race, color, national origin or handicap.

7.3.16 ANTI-KICKBACK CLAUSE

The Contractor hereby agrees to adhere to the mandate dictated by the Copeland Anti-Kickback Act which provides that each Contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

7.3.17 CLEAN AIR ACT

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities.

7.3.18 ENERGY POLICY AND CONSERVATION

The Contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

7.3.19 CLEAN WATER ACT

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

7.3.20 ANTI-LOBBYING AND DEBARMENT ACT

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act and the Debarment Act.

Attachment I - SAN Storage

Technical Requirements

The equipment listed below is required for both the Shreveport data center and the Baton Rouge data center, therefore the purchase of the following will be in duplicate and the bidder shall submit their quote on the Cost Sheet as such.

The vendor is responsible for the installation, configuration, management, support and training of all hardware, software, firmware, etc. listed below which will make up the Storage Area Networks. The bidder shall submit the brand and model number for each piece of equipment and meet all minimum requirements of the equipment as listed below.

- Twenty (20) 146 GB SAS 15K RPM HDD, plus one hot spare (21 total drives), in two sets of RAID 10 configurations. Minimum of 1295 GB total useable RAID 10 storage.
- Five (5) 1 TB SATA 7.2K RPM HDD, plus one hot spare (6 total drives) in RAID 5 configuration. Minimum of four (4) TB total useable RAID 5 storage.
- Seamless firmware upgrades (no outage or path failover required for host)
- Seamless software upgrades (no outage or path failover required for host)
- Redundant power supplies
- Hot swappable disk drives
- Ability to support a minimum of eight fiber channel host ports at 8Gb/s bandwidth each
- Scalable cache up to 16GB.
- Hardware must be maintainable for a minimum of seven years
- Must utilize **SATA**, 10K and 15K RPM **SAS** disk drives with the ability to mix drive types in a single tray.
-

- Ability to support drive expansion up to a minimum of 240 drives (SATA and/or SAS)
- Ability to support expansion trays with 48 SATA drives in a 4U high tray.
- Hardware RAID engine on the storage frame and support for RAID 0, 1, 1+0, 5 or 6
- Must have Symmetrical Active-Active Controllers with the following features:
 - All volumes are always available via either controller
 - When any port is unavailable or link is lost, IO is automatically directed via another port to another link
 - Broadband cross path Switch providing high performance IO balancing
 - All Cache is mirrored (writes) and all segments available via either controller
 - Data is never exposed while in cache
 - Load Balancing is automatic (Traffic is rerouted to less busy controller/port)
 - Works with native path failover (MPIO/MPXIO/other)
 - Load balancing between dual controllers without host-side path switching
- Ability to support Thin Provisioning: Dynamic Volume and Pool expansion to reduce unused but allocated space
- Ability to support online LUN migration without user impact
- Point-to-point backend design capable of 16 concurrent I/Os
- Ability to segment cache to match application workload. (ex: match cache segments to application block sizes for increased cache utilization and ability to lock data sets in cache)

- Ability to manage multiple arrays via a single pane of glass
- Array-based snapshots, full-volume clones and remote replication capability
- Power savings options including drive spin-down
- Additional connectivity hardware as follows:
 - Two (2) Brocade 320 switches with 16 x 4Gb/s active ports and SFP's per switch (32 ports total)
 - Twenty (20) LC/LC Fiber Optic 5M cables to connect six dual-path servers and 4 storage ports to the Brocade switches
- Multipathing software for six (6) Windows servers must be included
- Advanced array management software must be included providing host path awareness, file system utilization, server volume to disk array LUN mapping, user management and alert notifications
- Customer must have the ability to perform software and firmware updates without involvement from the vendor unless the Customer chooses to solicit vendor's assistance.
- All hardware and software required to install, run, configure, manage and support the bidder's SAN including all components of the SAN included in the bidder's response.
- All hardware must be capable to run at 208/220 volt single phase electrical supply.

Attachment II – Cost Sheet

Description	Quantity	Each	Total
SAN Storage as described on Page # _____	2		
One (1) Year Warranty per Section 2.13 (if not covered in cost of equipment)	2		
Installation	2		
Training	2		
Other costs not quoted elsewhere (Vendor to define unit of measure and identify costs being quoted)	2		
Maintenance (per Section 5.1) *			
Year 2	2		
Year 3	2		
Year 4	2		
Year 5	2		
TOTAL			\$

Note: Maintenance will be paid on an annual basis. This is a 5 year contract.

BUSINESS ASSOCIATE AGREEMENT

On this ____ day of _____, 200__, the undersigned, **LSUHSC-S** ("Covered Entity") and _____ ("Business Associate") have entered into this "Business Associate Agreement" ("Agreement") for the purposes herein set forth.

1. Business Associate Relationship

- (a) Covered Entity and Business Associate are parties to a Contract (the "Contract"), and, in connection with that Contract, Covered Entity may disclose to Business Associate certain information ("Protected Health Information" as further defined below) that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended from time to time, and pursuant to the provisions of HIPAA ("HIPAA Regulations"), Business Associate must, as a condition of doing business with Covered Entity, agree in writing to certain mandatory provisions regarding, among other things, the use and disclosure of Protected Health Information (herein "PHI").
- (b) Covered Entity is bound by the regulations implementing the Health Insurance Portability and Accountability Act of 1996, P. L. 104-191 ("HIPAA"), 45 C.F.R. Parts 160 and 164 ("the Privacy Rule"). The intent and purpose of this Agreement is to comply with the requirements of the Privacy Rule, including, but not limited to, the Business Associate contract requirements at 45 C.F.R. § 164.502(e) and 164.504(e).
- (c) In the performance of this Agreement, Business Associate is performing functions on behalf of Covered Entity, which meet the definition of "Business Associate Activities" in 45 C.F.R. § 160.103, and therefore Business Associate is a "Business Associate" of Covered Entity.
- (d) In order for Business Associate to perform its obligations under the Contract, Covered Entity must disclose to Business Associate certain Protected Health Information (as defined in 45 C.F. R. §164.501) that is subject to protection under HIPAA and the Privacy Rule.

NOW, THEREFORE in consideration of the mutual promises and covenants contained herein, and in furtherance of the mutual intent of the parties to comply with the requirements of the Privacy Rule, the parties agree as follows:

2. Definitions

- (a) Protected Health Information. "Protected Health Information" shall have the meaning found in 45 C.F.R. § 164.501, limited to the information

created or received by Business Associate from or on behalf of Covered Entity. "Protected Health Information" may also be referred to as "PHI".

- (b) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Terms used in this Agreement, but not otherwise defined herein, shall have the same meaning as in the Privacy Rule.

3. Obligations and Activities of Business Associate

- (a) Business Associate agrees not to use or otherwise disclose PHI (as defined in 45 CFR § 164.504) it receives from Covered Entity for any purpose other than for the purpose(s) stated in this Agreement.
- (b) Business Associate agrees to implement and maintain, and by this Agreement warrants that it has implemented such safeguards as are necessary to ensure that the PHI disclosed by Covered Entity to Business Associate is not used or disclosed by Business Associate, except as provided in the Contract.
- (c) Business Associate agrees to mitigate, to the extent practicable and unless otherwise requested by Covered Entity in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.
- (d) Business Associate agrees to promptly report to Covered Entity any use or disclosure of the PHI of which Business Associate becomes aware that is not provided for or permitted in the Contract. Business Associate shall permit Covered Entity to investigate any such report and to examine Business Associate's premises, records and practices.
- (e) If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree to the same restrictions and conditions that apply to the Business Associate under this Agreement. To the extent permitted by law, Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of Recipients in furnishing the services as if they were the Business Associate's own acts, failures or omissions.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, and in a prompt and timely manner, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements of 45 C.F.R. § 164.524.

- (g) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity or an Individual.
- (h) Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a prompt and timely manner or as designated by the Secretary, for purposes of determining Covered Entity's compliance with the Privacy Rule.
- (i) Business Associate agrees to document such disclosures of PHI as would be required for Covered Entity to respond timely to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (j) Business Associate agrees that, in requesting PHI from Covered Entity, and in using or disclosing PHI to others, only the Minimum Necessary information shall be requested, used or disclosed.

4. Permitted Uses and Disclosures by Business Associate

- (a) Except as otherwise prohibited by law or limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity or the Privacy Rule, including, but not limited to the following:
 - (1) Use or disclose PHI for proper management and administration or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. Entities to which Business Associate discloses PHI for the purpose of management and administration of the Business Associate shall be deemed "agents" or "subcontractors" of Business Associate, within the meaning of Section 3(e) of this Agreement.

- (2) Use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e) (2) (i) (B).

5. Obligations of Covered Entity

- (a) Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI. Business Associate acknowledges that it has received a copy of Covered Entity's Notice of Privacy Practices, and agrees to comply with all limitations on use and disclosure of PHI contained therein.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (c) Covered Entity shall notify Business Associate of any changes in Covered Entity's Notice of Privacy Practices.

6. Term and Termination of Agreement

- (a) Term. The Term of this Agreement shall be effective as of the date of execution by the last party executing same, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Notwithstanding any other provisions of this Agreement, upon Covered Entity's knowledge of a material breach by Business Associate of the terms of this Agreement, Covered Entity shall either:
- (1) Provide an opportunity for Business Associate to cure the breach. Covered Entity may terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
- (2) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

- (3) If neither termination nor cure is feasible in the sole discretion of Covered Entity, Covered Entity shall report the violation to the Secretary.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall not retain copies of any PHI. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate.
 - (2) In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall notify Covered Entity of this determination and its reasons. If Covered Entity agrees that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this Addendum to such PHI and limit further uses and disclosures, for so long as Business Associate maintains such PHI. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate.

7. Miscellaneous

- (a) Regulatory References. Any reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- (b) Formal Amendment and Deemed Amendment. The Parties agree to take such action as is necessary to formally amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191. Regardless of the execution of a formal amendment of this Agreement, the Agreement shall be deemed amended to permit the Covered Entity to comply with HIPAA and the Privacy Rule, as the same may be hereafter amended or interpreted.
- (c) Survival. The respective rights and obligations of Business Associate under Section 6 (c) of this Agreement entitled "Effect of Termination" shall survive the termination of this Agreement and/or the Contract.
- (d) Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

- (e) Material Breach of Agreement as Breach of Contract. Any material breach of this Agreement by Business Associate shall constitute a material breach of the Contract, and shall entitle Covered Entity to any of the remedies provided in the Contract, in addition to the remedies provided herein.
- (f) Provisions of Agreement to Control. In the event of any conflict between the provisions of this Agreement and any of the other provisions of the Contract, the provisions of this Agreement shall control.
- (g) Ownership of PHI. The PHI to which Business Associate, or any agent or subcontractor of Business Associate has access under this Agreement and/or the Contract shall be and remain the property of Covered Entity.
- (h) Indemnification and Contribution. Each party to this Agreement shall indemnify and hold the other harmless from any and all claims, liability, damages, costs and expenses, including attorney's fees and costs of defense and attorney's fees, resulting from the action or omission of the other party. In the event that any liability, damages, costs and expenses arise as a result of the actions or omissions of both parties, each party shall bear such proportion of such liability, damages, costs and expenses as are attributable to the acts or omissions of such party.
- (i) Injunctive Relief. Notwithstanding any rights or remedies provided for in this Agreement, Covered Entity retains all rights to seek injunctive relief to prevent or stop the inappropriate use or disclosure of PHI directly or indirectly by Business Associate, or any agent or subcontractor of Business Associate.
- (j) Attorney's Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement or in connection with any of its provisions, the prevailing party shall be entitled to an award for the attorney's fees and costs incurred therein in addition to any other right of recovery.
- (k) Severability. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that, if any such provision is held to be illegal, invalid or unenforceable, there will be substituted in lieu thereof a provision as similar in terms to such provision as is possible which is legal, valid and enforceable.
- (l) Waiver of Provisions. Failure by either party at any time to enforce or require the strict performance of any of the terms and conditions of this Agreement shall not constitute a waiver of such terms or conditions or modify such provision or in any manner render it unenforceable as to any

other time or as to any other occurrence. Any specific waiver by either party of any of the terms and conditions of this Agreement shall be considered a one-time event and shall not constitute a continuing waiver. Neither a waiver nor any failure to enforce shall in any way affect or impair the terms or conditions of this Agreement or the right of either party to avail itself of its remedies.

- (m) Choice of Law. To the extent not preempted by HIPAA or the Privacy Rule, the Laws of the State of Louisiana shall govern this Agreement.
- (n) Notices. Any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and will be deemed to have been given when actually delivered (by whatever means) to the party designated to receive such notice, or on the next business day following the day sent by overnight courier, or on the third (3rd) business day after the same is sent by certified United States mail, postage and charges prepaid, directed to the addresses noted below, or to such other or additional address as any party might designate by written notice to the other party, whichever is earlier.

Notices required by this Agreement shall be sent as follows:

Covered Entity:

**LSU Health Sciences Center
ATTN: Compliance Department
1501 Kings Highway
Shreveport, LA 71103**

Business Associate:

THUS DONE AND SIGNED on the date first written above:

LSU Health Sciences Center:

By: Jeffrey L. Hartgrove, C.P.M.
Title: Director of Purchasing
And Materials Management

By:
Title: